

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish Valley Fever causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On April 1, 2019 appellant, then a 60-year-old distribution process worker, filed an occupational disease claim (Form CA-2) alleging that he contracted coccidioidomycosis, also known as Valley Fever, due to factors of his federal employment. He noted that he worked as a warehouse worker on a government installation with continuous, ongoing heavy construction. Appellant indicated that he first became aware of his condition and realized its relation to his federal employment on December 4, 2018. He stopped work on December 4, 2018.

Along with his claim form, appellant submitted a letter from the employing establishment, dated April 3, 2018. The letter indicated that there had been a complaint alleging that employees were exposed to construction dust and soil, which may have caused Valley Fever. It asserted that three employees had contracted Valley Fever since October 2017. The employing establishment noted that, following an internal investigation, it could not substantiate these allegations. It claimed that employees were educated on known hazards and were given personal protective equipment. The employing establishment indicated that it conducted ongoing air quality assessments and briefed employees on the federal and local regulations and policies prior to the start of construction projects. It reported that Valley Fever could be contracted from tiny seeds and spores that were present in the San Joaquin Valley.

In a development letter dated April 8, 2019, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Dr. Nyo Hla, a Board-certified specialist in internal medicine, indicated in a February 16, 2019 work status report that appellant was placed off work from February 16 through March 2, 2019. He noted that appellant was able to return to full-time work on March 3, 2019.

In a March 5, 2019 work status report, Dr. Veena Devarakonda, a Board-certified specialist in critical care medicine, indicated that appellant was placed off work from March 15 through April 17, 2019.

Dr. Catherine Leng, an osteopathic physician specializing in family medicine, noted in a March 22, 2019 report that appellant had a chronic condition, which required treatment and might result in episodic incapacity. She indicated that appellant was unable to perform some of his job functions due to his condition. Dr. Leng noted that the probable duration of appellant's condition lasted through April 1, 2020.

In a March 29, 2019 work status report, Dr. Devarakonda placed appellant on modified-duty work from April 27 through May 22, 2019. She noted that appellant was able to return to full-time work on May 23, 2019.

By decision dated May 13, 2019, OWCP denied appellant's occupational disease claim, finding that the factual evidence of record was insufficient to establish specific employment factors that were alleged to have caused his claimed condition.

Appellant continued to submit additional medical evidence. In a December 5, 2018 report, Dr. Linnea Williams, an osteopathic physician specializing in family medicine, noted that appellant had a cough that lasted three weeks. She examined appellant and diagnosed cough and nasal congestion.

In a December 7, 2018 report, Dr. Max Miller, a Board-certified specialist in internal medicine, noted appellant's complaints of fevers, chills, severe cough, and chest pain. He examined appellant and diagnosed community-acquired right lower lobe pneumonia.

Diagnostic testing, dated December 10, 2018, showed the results of electrocardiogram (EKG), hematology, metabolic, liver, and urine testing.

Posteroanterior and lateral x-ray views of appellant's chest revealed right lower lobe infiltrate.

In a December 10, 2018 emergency room report, Dr. Danica Barron, a Board-certified specialist in emergency medicine, noted that appellant presented with shortness of breath, chest tightness, and continuous hiccupping. She reviewed an x-ray of appellant's chest and diagnosed pneumonia and hiccups.

In a December 10, 2018 report, Dr. Kulwant Monder, a Board-certified specialist in internal medicine, noted that appellant had a cough and fever that had lasted three weeks. He indicated that appellant worked at a warehouse. Dr. Monder reviewed laboratory testing and an x-ray of appellant's chest and diagnosed community-acquired pneumonia and sepsis without acute organ dysfunction.

A computerized tomography (CT) scan of appellant's chest revealed a mass-like consolidation in the right lower lobe.

Serum antibody testing, dated December 10, 2018, revealed the presence of coccidioides antibodies, confirming Valley Fever.

In a March 20, 2019 report, Dr. Leng noted that appellant presented with Valley Fever. She examined appellant and diagnosed pulmonary coccidioidomycosis. Dr. Leng indicated that appellant should be off work from December 31, 2018 through March 31, 2019.

In a March 27, 2019 note, Dr. Devarakonda noted that appellant's headaches and Valley Fever symptoms were improving. In a March 28, 2019 note, she noted that appellant could return to modified-duty work with medium restrictions between April 18 and 30, 2019. Dr. Devarakonda indicated that he could return to full-duty work on May 1, 2019.

In an April 18, 2019 note, Dr. Devarakonda indicated that appellant remained off work. In an April 21, 2019 note, she diagnosed pulmonary coccidioidomycosis (Valley Fever).

On June 12, 2019 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on September 23, 2019. Appellant testified that he worked as a warehouse worker and was exposed to dust from construction projects at work. He further testified that he began feeling flu-like symptoms on November 7, 2018 and left work in early December 2018. Appellant indicated that he lived in Stockton, California in the San Joaquin Valley. He testified that, while he fished and golfed in the area, he was only exposed to airborne dust while at work. Appellant stated that four of his coworkers were also ill with Valley Fever.

In an October 21, 2019 letter, the employing establishment controverted appellant's claim, noting that he could not identify specific dates when he was exposed to construction dust. It asserted that appellant lived in a Valley Fever-endemic area of California and could have contracted Valley Fever outside of work when he was fishing or playing golf. The employing establishment attached a list of all construction projects at the employing establishment from 2016 to 2019 and alleged that there were no soil-disturbing or digging projects associated with Valley Fever during the one- to three-week incubation period following November 2018, the date of exposure.

By decision dated November 13, 2019, an OWCP hearing representative modified the May 13, 2019 decision, finding that appellant had established specific employment factors alleged to have caused his diagnosed condition. However, the claim remained denied as the medical evidence of record was insufficient to establish a causal relationship between the diagnosed condition and the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the

³ *Supra* note 2.

⁴ *R.M.*, Docket No. 20-0342 (issued July 30, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *V.P.*, Docket No. 20-0415 (issued July 30, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ 20 C.F.R. § 10.115; *S.A.*, Docket No. 20-0458 (issued July 23, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish Valley Fever causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted hospital reports from Drs. Williams, Miller, Barron, and Monder, dated December 5 through 10, 2018. In these reports, the physicians diagnosed cough, nasal congestion, pneumonia, and sepsis. However, they did not provide a medical diagnosis of Valley Fever or offer an opinion as to whether appellant's employment caused or aggravated his diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁰ As such, these reports are insufficient to meet appellant's burden of proof to establish his claim.

Appellant also submitted work status reports from Drs. Hla, Leng, and Devarakonda, dated February 16 through April 18, 2019. In these reports, the physicians excused appellant from work, listed his work restrictions, and provided a date when he could return to full-duty work. However, they did not provide a firm medical diagnosis, a rationalized medical opinion, or objective findings of any kind.¹¹ The Board therefore finds that these reports are of no probative value and are insufficient to establish appellant's claim.¹²

In a March 20, 2019 report, Dr. Leng indicated that appellant had a recent episode requiring hospitalization and presented with Valley Fever. She examined appellant and diagnosed pulmonary Valley Fever. While Dr. Leng provided a diagnosis of Valley Fever, she did not offer an opinion as to whether appellant's employment caused or aggravated his diagnosed condition. As noted, medical evidence that does not offer an opinion regarding the cause of an employee's

⁷ See *B.H.*, Docket No. 18-1693 (issued July 20, 2020); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁰ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ See *L.F.*, Docket No. 19-1845 (issued May 8, 2020).

¹² *Id.*

condition or disability is of no probative value on the issue of causal relationship and is insufficient to establish appellant's claim.¹³

Similarly, in an April 21, 2019 note, Dr. Devarakonda diagnosed Valley Fever, but did not offer an opinion as to whether appellant's employment caused or aggravated his diagnosed condition. Accordingly, this note is of no probative value and is insufficient to establish appellant's claim.¹⁴

The record contains numerous diagnostic tests, dated December 10, 2018, including x-rays, a CT scan, EKG testing, hematology testing, urine testing, and serum antibody testing. The Board has held, however, that diagnostic test reports, standing alone, lack probative value as they do not provide an opinion on whether there is a causal relationship between employment factors and a diagnosed condition.¹⁵

As appellant has not submitted rationalized medical evidence to support his claim that his diagnosed condition of Valley Fever was causally related to the accepted factors of his federal employment, he has not met his burden of proof to establish his claim. He may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish Valley Fever causally related to the accepted factors of his federal employment.

¹³ *Supra* note 10.

¹⁴ *Id.*

¹⁵ *J.P.*, Docket No. 20-0381 (issued July 28, 2020).

ORDER

IT IS HEREBY ORDERED THAT the November 13, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 28, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board